

Assembly Bill No. 542

CHAPTER 265

An act to amend Section 1563 of the Code of Civil Procedure, and to amend Section 179 of the Military and Veterans Code, relating to military artifacts.

[Approved by Governor September 3, 2003. Filed
with Secretary of State September 4, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 542, Dutra. Military artifacts: loan by California State Military Museum.

(1) Existing law requires all escheated property delivered to the Controller to be sold by the Controller to the highest bidder at public sale, as specified. Existing law excepts from this requirement escheated property consisting of military awards and decorations, which are to be held in trust for the Controller at the California National Guard Museum and Resource Center.

This bill would provide that other items relating to the military history of California and Californians are also to be exempted from the public sale requirement described above, and would provide that the California State Military Museum and Resource Center shall hold these items in trust for the Controller. The bill would require that the escheated property that is held by the California State Military Museum and Resource Center be subject to specified regulations for Army museums and would require that the museum be responsible for the storage and maintenance costs for that property.

(2) Existing law requires the Adjutant General to establish the California State Military Museum as a repository for military artifacts, and permits the Adjutant General and the California State Military Museum to solicit, receive, and administer donations for the support and improvement of the museum. Existing law permits the California State Military Museum to dispose of property determined by it to be in excess of the needs of the museum, as specified, with the benefits from these dispositions to be applied to the museum.

This bill would authorize the California State Military Museum to enter into agreements with other military museums to loan property that is under its direct control or property that has escheated to the state and is held in trust for the Controller. This bill would except escheated property that the museum holds in trust for the Controller from the

provisions described above permitting the museum to dispose of excess property.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Members of the United States Armed Forces have consistently answered their nation's call to duty with honor and bravery.

(b) Californians serve proudly and with distinction in every branch of the United States Armed Forces.

(c) Californians have been recognized for their distinguished service by being honored through the awarding of Purple Hearts, Silver Stars, and Congressional Medals of Honor, among other commendations and awards.

(d) The heritage and culture of the State of California is uniquely represented in military equipment, artifacts, memorabilia, documents, photographs, films, literature, and other items relating to the military history and tradition of California and Californians.

SEC. 2. Section 1563 of the Code of Civil Procedure is amended to read:

1563. (a) Except as provided in subdivisions (b) and (c), all escheated property delivered to the Controller under this chapter shall be sold by the Controller to the highest bidder at public sale in whatever city in the state affords in his or her judgment the most favorable market for the property involved, or the Controller may conduct the sale by electronic media, including, but not limited to, the Internet, if in his or her judgment it is cost effective to conduct the sale of the property involved in that manner. The Controller may decline the highest bid and reoffer the property for sale if he or she considers the price bid insufficient. The Controller need not offer any property for sale if, in his or her opinion, the probable cost of sale exceeds the value of the property. Any sale of escheated property held under this section shall be preceded by a single publication of notice thereof, at least one week in advance of sale, in an English language newspaper of general circulation in the county where the property is to be sold.

(b) Securities listed on an established stock exchange within two years following receipt by the Controller shall be sold at the prevailing prices on that exchange. Other securities may be sold over the counter at prevailing prices or, with prior approval of the State Board of Control, by any other method that the Controller may determine to be advisable. United States government savings bonds and United States war bonds



shall be presented to the United States for payment. Subdivision (a) does not apply to the property described in this subdivision.

(c) (1) All escheated property consisting of military awards, decorations, equipment, artifacts, memorabilia, documents, photographs, films, literature, and any other item relating to the military history of California and Californians that is delivered to the Controller is exempt from subdivision (a) and shall be held in trust for the Controller at the California State Military Museum and Resource Center. All escheated property held in trust pursuant to this subdivision is subject to the applicable regulations of the United States Army governing Army museum activities as described in Section 179 of the Military and Veterans Code. Any person claiming an interest in the escheated property may file a claim to the property pursuant to Article 4 (commencing with Section 1540).

(2) The California State Military Museum and Resource Center shall be responsible for the costs of storage and maintenance of escheated property delivered by the Controller under this subdivision.

(d) The purchaser at any sale conducted by the Controller pursuant to this chapter shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The Controller shall execute all documents necessary to complete the transfer of title.

SEC. 3. Section 179 of the Military and Veterans Code is amended to read:

179. (a) The Adjutant General shall establish a California State Military Museum and Resource Center as a repository for military artifacts, memorabilia, equipment, documents, and other items relating to the history of the California National Guard, in accordance with applicable regulations of the United States Army governing Army museum activities. The museum shall consist of the facility described in the Proclamation of the Governor dated May 11, 1994, and any branches as may currently exist or may from time-to-time be created throughout the state. Each facility shall be deemed to be an armory within the meaning of Section 430.

(b) The Adjutant General shall enter into an operating agreement with the California Military Museum Foundation, formerly known as the California National Guard Historical Society, an existing California nonprofit public benefit corporation, that is tax exempt under Section 501(c)(3) of the Internal Revenue Code. Under the operating agreement with the Adjutant General, the foundation shall operate the museum in coordination with the California Center for Military History of the California State Military Reserve. The foundation shall develop, administer, interpret, and manage museum historical programs and



related public services, and acquire and manage funding for museum programs and services.

(c) Volunteers, docents, members of the State Military Reserve, or others working with or for the California Military Museum Foundation for purposes consistent with the mission of the organization, shall be considered volunteers under Sections 3118 and 3119 of the Government Code and Section 3363.5 of the Labor Code.

(d) The Board of Trustees of the California Military Museum Foundation shall include the Adjutant General, or the Assistant Adjutant General, or any Deputy Adjutant General designated by the Adjutant General, as an ex officio voting member of the board. The board of trustees of the foundation shall be the governing authority for operations funded through moneys received by the foundation. The board of trustees of the foundation shall submit an audit report annually to the Adjutant General. The board of trustees of the foundation shall submit copies of annual audit reports to the Director of the Department of Finance, the Chair of the Joint Legislative Audit Committee, and the Chair of the Joint Legislative Budget Committee. No funds raised or assets acquired by the foundation shall be used for purposes inconsistent with support of the museum.

(e) The Board of Trustees of the California Military Museum Foundation shall, no later than January 10 of each year, submit a business plan for the following fiscal year to the Adjutant General, the Director of the Department of Finance, and the Chair of the Joint Legislative Budget Committee for review and comment. The board of trustees shall also submit, not less than 30 days prior to adoption, any proposed formal amendments to the business plan to the Adjutant General, the Director of the Department of Finance, and the Chair of the Joint Legislative Budget Committee for review and comment.

(f) (1) The Adjutant General or the California State Military Museum may solicit, receive, and administer donations of funds or property for the support and improvement of the museum. Any grants or donations received may be expended or used for museum purposes.

(2) Property of historical military significance, not including real property, that is owned by the state and is determined by the Adjutant General to be in excess of the needs of the Military Department, shall be transferred to the museum.

(3) Property determined by the California State Military Museum to be in excess of the needs of the museum may be sold, donated, exchanged, or otherwise disposed of, at its discretion, in a manner appropriate to the historical and intrinsic value of the property, and the benefits from the disposition shall inure to the museum. This paragraph



does not apply to property held in trust for the Controller pursuant to Section 1563 of the Code of Civil Procedure.

(g) The Adjutant General or the California State Military Museum may solicit and receive firearms and other weaponry confiscated by or otherwise in the possession of law enforcement officers as donations to the museum if he or she deems them to be of historical or military interest.

(h) The Adjutant General shall, in cooperation with the California State Military Museum, conduct a study of the future needs of the National Guard to preserve, display, and interpret artifacts, documents, photographs, films, literature, and other items relating to the history of the military in California.

(i) (1) The California State Military Museum may enter into agreements with other military museums in California, including, but not limited to, the Legion of Valor Museum, to loan property that is not real property and that is under the direct control of the California State Military Museum.

(2) The California State Military Museum may enter into agreements with other military museums in California to loan property held in trust for the Controller pursuant to Section 1563 of the Code of Civil Procedure.

